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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,734	08/22/2001	Hiroshi Sasaki	DP-799 US	6529
21254	7590	12/08/2005	EXAMINER	
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC			SHAH, AMEE A	
8321 OLD COURTHOUSE ROAD			ART UNIT	
SUITE 200			PAPER NUMBER	
VIENNA, VA 22182-3817			3625	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,734

Applicant(s)

SASAKI, HIROSHI

Examiner

Amee A. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03 May 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1- 26 are pending in this action.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Examiner Notes

Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Objections

Claim 1 is objected to because of the following informalities: there appears to be a typographical error in line 3 of the claim whereby "content provides" should likely read "content providers." Appropriate correction is required.

Claims 7, 10, 12-14, 16-18 and 25 are objected to because of the following informalities: the claims, which depend from a dependant claim, are separated by claims that do not depend

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from the same dependant claim. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim that depends from a dependent claim should not be separated by any claim that does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed.

See MPEP § 608.01(n). Corrections will be required prior to any allowance.

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 4, 6, 7, 10, 12-14, 17, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 4 are system claims comprising, in part, “means for memorizing the number of *users who have accepted payment* of a set fee for the specified period of time...” (lines 8-10, emphasis added). This limitation is inconsistent with the specification as understood by the examiner. The specification states on page 17, lines 18-25:

In this embodiment, a user who wants to access and acquire a content is charged one dollar, for example, as a pseudo-entrance fee (in this embodiment, a configuration can be arranged so that a user is able to acquire as many contents as he/she wants once the user pays the entrance fee). Additionally, a membership system wherein membership is registered in advance can be applied so that a user is able to make as many pseudo-entrances as he/she wants per month and then acquire contents once the user pays one dollar, for example.

Further, on page 19, line 24 through page 20, line 10, the specification states:

A count value on a hit number of each content is used for calculating the amount of money to be paid to each content provider. For instance, supposing that the count number is to be complied once a month, a content provider is to be paid the amount of money calculated as follows; deduct a service charge for the content disclosing support server (e.g. 20% of the total amount of pseudo-entrance fee) from the total amount of pseudo-entrance fee collected from each user for one month, and divide the calculated value by the total count number of all contents, and then multiply the calculated value by the total count number of a specified content. Thus, the content provider is able to realize the public evaluation for his/her own work, for example, by the amount of money he/she receives. Further, the amount to be paid to the content providers can be calculated, for example, by periodically abstracting registration information (e.g. information on a count number for each content, a number of users responded to payment requests for pseudo-entrance fee, etc.) of the database at the content disclosing support server 20.

The specification does not describe when or how users accept payment of a set fee, but rather that users **make** payments of a set fee for a specified period of time. Therefore, claims 3 and 4 are inconsistent with the specification and are rendered unclear. Because claims 6, 7, 10, 12-14, 17, and 18 are dependencies of claims 3 and 4, they are also rendered unclear and are subject to the same objection.

For purposes of this action only, examiner will interpret the limitations of claims 3 and 4 to read “means for memorizing the number of users who have made payment of a set fee for the specified period of time...”

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, 19-22 and 26 are rejected under 35 U.S.C. 102(e)(2) as being anticipated by Reynolds et al., U.S. Patent No. 6,052,717.

Referring to Claims 1, 2, 19, 20 and 26. Reynolds et al. discloses a content disclosing support system, method and program (see Abstract and Figures 1 and 3) comprising:

- providing means for transmitting created contents provided by content providers through a network (Fig. 1 and col. 2, lines 66-67 – note the providing means is the ibook server);
- registering means for registering contents provided by unspecified number of content providers through the content providing means (Figs. 3-5 and col. 5, line 58 through col. 6, line 61 – note the registering means is the website and enrollment process);
- disclosing means for making the contents registered by the content registering means available to the public (Fig. 1 and col. 2, lines 56-65 – note the registering means is the server and internet);

- transmitting means for transmitting one or more content(s) to a user terminal at a user's request while permitting the user to access and view the contents on condition that a prescribed amount of money is paid (Figs. 1 and 9, col. 3, lines 38-45 and col. 6, line 1-11 and 62-65 – note the transmitting means is the internet);
- accessing means for accessing the disclosed contents through the network on condition that a prescribed amount of money is paid (Figs. 1 and 3 and col. 6, lines 61-65 – note the accessing means is the website and server);
- acquiring means for acquiring one or more content(s) at a user's request (Figs. 1 and 3 and col. 11, lines 23-35 – note the acquiring means is the website and server); and
- counting means for counting a number of contents acquired by the content acquiring means to calculate the amount of money to be paid to the content providers (Figs. 3, 10, 11 and 12 and col. 11, lines 7-16 – note the counting means includes the access database).

Referring to claims 3, 4, 21 and 22. Reynolds et al. discloses the content disclosing support systems and methods as claimed in claims 1, 2, 19 and 20, further comprising:

- a count number memorizing means for recognizably memorizing the total count number of each content within a specified period of time and the total count number of all contents within the specified period of time, on the basis of the counting result given by the counting means (Figs. 11 and 12 and col. 12, lines 19-29 – note the count number memorizing means is the server and website);
- a specified user number memorizing means for memorizing the number of users who have made payment of a set fee for the specified period of time (Fig. 3, and col. 5, line 62

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through col. 6, line 24 and col. 11, line 61 through col. 13, line 14 – note that user number memorizing means is the server including viewer and contributor databases); and

- a payment amount deciding means for deciding the amount of money to be paid to each content provider by calculating as follows, divide a part of the total amount of collected money derived on the basis of a user number memorized in the specified user number memorizing means by the total count number of all contents, and multiply the calculated value by the total count number of each content (Figs. 11 and 12 and col. 12, lines 19-29 and col. 13, lines 6-10).

Referring to claims 5-10. Reynolds et al. further discloses the content disclosing support system as claimed in claims 1, 2, and 4, wherein the contents are picture images taken by an image importing device and wherein the contents are writings (col. 3, lines 1-4).

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-18 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds et al. in view of Alpdemir, US Patent No. 6,658,389 B1.

Referring claims 11-18 and 23-25. Reynolds et al. discloses the content disclosing system of claims 1, 2, 4, 7, 10, 19, 20 and 22, as analyzed and discussed above, but does not disclose explicitly a system having a base station through which to acquire and transmit information and wherein the user terminal is a cell phone terminal. Alpdemir, in the same field of endeavor of e-shopping, discloses a system and method for providing automated interactive information from a business to a consumer through the Internet including a base station and cell phone terminal through which content is transmitted and/or received (Fig. 1 and col. 3, lines 45-60).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the system of Reynolds et al. to include the teachings of Alpdemir to incorporate the features of allowing users to access the Internet/websites via mobile or wireless terminals such as cell phones, PDAs, etc., which require bases stations to communicate. Doing so would provide convenience to customers by allowing them to access the website even when they are not at their homes or offices.

Conclusion

The following prior art is made of record, not relied upon, and is considered pertinent to applicant's disclosure: (1) Chacker, U.S. Patent No. 6,578,008 B1, disclosing a method and system providing a website, uploading artists' work over the website, making each work available to the public via the web site, and allowing the public to give feedback and buy artists' works (*see e.g.* columns 5, and 7-11), and which can also be used to reject claims 1, 2, 5, 6, 8, 9, 19, 20; (2) Stefik et al., U.S. Patent No. 5,634,012, disclosing a fee accounting mechanism for

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reporting fees associated with the distribution of digital works (*see e.g.* column 4); (3) Tolme, Paul, "Online Publishers Redefining 'Book' – 'The Point Is, We Let The Public Decide What Is Good,'" The Associate Press, Pittsburgh Post-Gazette, Pittsburgh, Pa., Aug. 12, 1999, p. F7; (4) Masao et al., JP Pub. No. 2000-076339 (cited by applicant), disclosing means to count contents retrieved in order to determine payment (*see* Abstract).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAS

December 5, 2005


J.C. Gaof
Primary Examiner